IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No. 5484 of 2004

Between:

T.Rajeshwar S/o.Basavaiah

Vijayanagaram, Kautala Mandal, Adilabad District,

Presently R/o.2-5-5-5, Nougaon Basti, Sirpur Kagaznagar
Adilabad District.

..... PETITIONER.

AND

1. The Joint Collector, Adilabad
2. The District Educational Officer, Adilabad.
3. Diocese of Adilabad Education Society, Bishop's House,

Mancherial, rep.by its President.
4. The Head Master & Correspondent, St.Joseph's High School,

Vijayanagaram, Godilabori-504299, Koutala Mandal
Adilabad District. **.....RESPONDENTS.**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more in the nature of writ of Mandamus directing the respondents herein to consider the case of the petitioner for recruitment to the post of School Assistant, Maths against the existing grant-in-aid post in St.Joseph's High School at Vijayanagaram, Kautala Mandal, Adilabad District, pursuant to the Notification issued by the 3rd respondent for recruitment of teachers which was published in Jyothi Daily News Paper on 2-7-2003 by duly declaring the inaction of the respondents in considering the case of petitioner without any valid reasons, even though, he was the only candidate attended for the test and interview on 7-2-2004 in response to the call letter and Hall Ticket issued by the 4th respondent dt.27-1-2004 as illegal, arbitrary, unjustified and violative of Art.14, 16,21 of the Constitution of India.

Counsel for the Petitioner: Mr.V.Ravi Kiran Rao

Counsel for Respondents : Govt. Pleader for Education for

respondents 1 and 2.

Mr. Ch.Samson Babu, for respondents 3 and 4.

The Court made the following :

ORAL ORDER:

When the vacate stay petition filed by respondents 3 and 4 is taken up for consideration, both the counsel submitted that the writ petition itself can be disposed of. With the consent of both the counsel, the writ petition itself is taken up for hearing and is disposed of by this order.

The petitioner seeks a direction to the respondents to consider his case for appointment to the post of School Assistant (Mathematics) against the existing grant-in-aid post in St. Joseph's High School at Vijayanagaram, Kautala Mandal, Adilabad District, fourth respondent herein.

The petitioner is working as School Assistant (Mathematics) in an un-aided post from 17-10-2002 in the fourth respondent school on temporary basis and he was appointed to work till the last working day of the academic year 2002-2003. It is his case that even though the practice of appointing teachers on temporary basis was deprecated by the Supreme Court, the third respondent appointed him on temporary basis. Having been satisfied with his performance, the fourth respondent appointed him till the end of academic year 2003-2004. While so, the third respondent issued a notification for recruitment of teachers in aided posts and the same was published in Jyothi Daily newspaper on 2-7-2003. In the said notification, the post of School Assistant (Mathematics) in which the petitioner is working, was also advertised. In response to the said notification, the petitioner applied for the post of School Assistant (Mathematics). He attended the test and interview on 7-2-2004. He was called to attend the test and interview on 7-2-2004. When he went to attend the interview, he came to know that only two candidates i.e., himself and one Mr. Mohan applied for the said post, but the said Mohan had not attended the interview on 7-2-2004, as he was employed in some other educational institution. On the date of interview, it is alleged that the petitioner was informed by a representative of the third respondent society that he need not attend the test and interview as he is the only candidate attended. He was also informed that necessary orders appointing him as

School Assistant will be issued on 8-2-2004. As he has not received any orders, he got issued a legal notice on 9-2-2004 to the third respondent society. He also made a representation on 12-2-2004. Even after issuing legal notice and making representation, no action is taken by the third respondent to appoint him as School Assistant. The petitioner alleges that the third respondent, with an intention to appoint a minority candidate in the aided post of School Assistant (Mathematics), has not issued orders in his favour. He contends that non-consideration of his case on the ground that he does not belong to minority community is arbitrary, illegal, discriminatory and violative of Articles 14, 16 and 21 of the Constitution of India. It is his case that he is fully qualified and eligible to be appointed as School Assistant (Mathematics) in an aided vacancy. He also claims that even if he is continued in the existing unaided post, his services are to be regularized as per the Government Orders issued from time to time. Apprehending that the third respondent may terminate him even from the unaided post in which he is working, he filed this writ petition.

This Court, while admitting the writ petition, by order dated 25-3-2004 in WPMP.No.7181 of 2004, directed to maintain *status quo* for a period of eight weeks and the said order was extended on 1-6-2004 to remain in force until further orders. Now respondents 3 and 4 have filed vacate stay petition being WVMP.No.1353 of 2004 praying this Court to vacate the said order. The petitioner filed WPMP.No.7181 of 2004 seeking a direction to respondents 3 and 4 to continue him in service as School Assistant (Mathematics) without giving any artificial break in service.

Learned counsel for the petitioner submits that though the petitioner appeared before the selection committee on 7-2-2004 in response to the call letter issued by the third respondent, no orders were passed. He submits that only two applications have been received for the post and though the petitioner is eligible and entitled to be considered, his case has not been considered on the ground that the other applicant has not turned up.

On the other hand, learned counsel for respondents 3 and 4 submits that in view of the *status quo* order granted by this Court, they are not able to fill up the vacant aided posts.

It is not in dispute that applications have been called for filling up the aided posts. But, it is the case of respondents 3 and 4 that interviews could not take place

because the District Educational Officer, Adilabad vide his letter dated 7-2-2004 directed the management to postpone the selection test proposed to be held on 7-2-2004 in order to give opportunity to more candidates to compete for the post to ensure fair selection. It is further stated that as and when next date is given for interview, the petitioner can attend. The Commissioner & Director of School Education also vide his letter dated 20-3-2004 directed the District Educational Officer to give date for interview and send his nominee for conducting interviews.

Having regard to the facts and circumstances of the case, I am of the view that there is no justification on the part of the District Educational Officer in not deputing his nominee for conducting the interviews. Accordingly, the District Educational Officer, Hyderabad is directed to send his nominee for conducting interviews so as to enable the concerned authorities to fill up the posts in the third respondent educational society and to enable the petitioner to appear for the selection of the said post. Respondents 1 and 2 are directed to fix up the date of interview as expeditiously as possible and the District Educational Officer is directed to appoint his nominee for conducting interviews. Till the interviews are conducted and final selections are made, the petitioner may be continued in service.

The writ petition is accordingly disposed of. No order as to costs.

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2nd August, 2004. **(V.ESWARAIAH, J.)**

Note: CC in a week.

ARS

To

1. The Joint Collector, Adilabad
2. The District Educational Officer, Adilabad.
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4. The Head Master & Correspondent, St.Joseph's High School,

Vijayanagaram, Godilabori-504299, Koutala Mandal

Adilabad District.

5. Two CCs to Govt. Pleader for Education, High Court Bldgs., Hyderabad (OUT).

6. 2 CD copies.